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May 6, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Thomas J. Bliley, Jr.
Chairman
Committee on Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515-6115

Dear Chairman Bliley:

Thank you for your letter regarding the Commission's international call-back policy and a pending application for review of the Common Carrier Bureau's Order in the USA Global Link, Inc. proceeding (the "USA Global Link proceeding"). In your letter, you suggest that the Commission reconsider whether its comity-based policy prohibiting call-back in certain circumstances continues to serve the public interest. You further urge the Commission to reclassify the USA Global Link proceeding as "non-restricted" in order to allow all interested parties to express their views.

As you noted, the Commission determined in 1994, and confirmed in a 1995 reconsideration (the "Call-Back Order"), that international call-back serves the public interest by placing downward pressure on rates charged by foreign carriers. The Commission continues to support call-back as an important pro-competitive force in the international services market. In the Call-Back Order, however, the Commission acknowledged foreign governments' sovereign rights to prohibit call-back within their territories. Under the doctrine of international comity, the Commission concluded that U.S. carriers should not offer the uncompleted call signaling form of call-back in countries that have enacted laws or regulations which expressly prohibit call-back.

On March 19, 1998, the Telecommunications Resellers Association ("TRA") filed a petition for rulemaking to eliminate the Commission's comity-based policy as set forth in the Call-Back Order. TRA cites language in the Call-Back Order stating that the Commission is under no international obligation to enforce other nation's laws. TRA asserts that in light of the market opening commitments achieved in the World Trade Organization Agreement on Basic Telecommunications Services, the Commission should not be assisting countries that resist competitive entry by call-back providers. We intend to examine the TRA petition and to give thorough consideration to the issues raised therein in an order responding to the petition. In a public notice released March 27, 1998, the Commission invited interested parties to submit comments on this petition by May 1, 1998 and reply comments by May 22, 1998. The Commission will submit your letter into the record of that proceeding.

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With regard to the USA Global Link proceeding, you correctly note that on August 8, 1997 the Common Carrier Bureau found USA Global Link, Inc. to be in violation of the Commission's Call-Back Order and Section 214 of the Communications Act of 1934. You request that the Commission apply "non-restricted," or "permit-but-disclose," status to the USA Global Link application for review, and you note that an Order (the "Restricted Status Order") was adopted on delegated authority rejecting a similar claim in December 1997. Pursuant to the Commission's rules, the USA Global Link proceeding is a formal complaint, and therefore is restricted pursuant to 47 C.F.R. § 1.1208. Therefore, no person may make an oral presentation to the Commission regarding the case without an opportunity for all parties to be present, and no written presentation may be submitted to the Commission unless a copy is served on all the parties to the proceeding. However, the Restricted Status Order has been appealed and is pending before the Commission.

Please be advised that the Commission indicated, in a public notice of October 3, 1997, that any written *ex parte* presentations submitted in response to the USA Global Link proceeding would be placed in a public file associated with, but not made a part of, the record in that proceeding. I would also note that the TRA rulemaking proceeding offers an opportunity for all interested parties to address the broader policy implications of our call-back policy.

I very much appreciate your interest in this matter and would welcome the opportunity to discuss your concerns relating to our international call-back policy in the near future.

Sincerely,



William E. Kennard
Chairman

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U.S. House of Representatives Committee on Commerce

Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

March 27, 1998

The Honorable William E. Kennard
 Chairman
 Federal Communications Commission
 1919 M Street
 Washington, D.C. 20554

Dear Chairman Kennard:

As our economy becomes increasingly globalized, the Commission has had to grapple with more difficult questions of international telecommunications service and competition. As you may know, I was a strong supporter of the World Trade Organization (WTO) negotiations on basic telecommunications services. Opening foreign markets to competition from U.S. and other providers of telecommunications will have a significant positive impact on U.S. consumers and our economy. Given the high usage of international services by U.S. consumers, and the competitive position of U.S. telecommunications providers, a key role for the Commission should be enhancing the competitiveness of the global telecommunications market, by both increasing the openness of our own market and facilitating entry of U.S. service providers in other markets.

For several years, the Commission has had to consider the public interest in the provision of international "call-back" services. The technology used by "call-back" provides a low-cost entry mechanism for U.S. service providers to enter foreign telecommunications markets and provide lower-priced services to U.S. consumers and others when calling abroad. The Commission found in 1994, and reconfirmed in 1995, that call-back services, by providing another form of competitive entry, are in the public interest. Those were important decisions, which have benefitted U.S. consumers, created jobs opportunities with new call-back providers, and increased price pressure on foreign dominant or monopoly international carriers.

In its 1995 *Call-Back Proceeding*, the Commission recognized the pro-competitive benefits of call-back services, but nonetheless adopted a policy of enforcing foreign prohibitions on call-back, as a concession to principles of international comity. Since that policy was

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adopted, sixty-nine nations accounting for over 90% of worldwide telecommunications revenues concluded the WTO Agreement on Basic Telecommunications, radically altering the international telecommunications marketplace by replacing the traditional monopoly telephone model with an open, pro-competitive global regulatory regime. Although most of the United States' major trading partners joined in this WTO Agreement, a few countries remain out of step with the rest of the world. These countries either did not participate in the market opening process or took specific reservations against call-back services.

Under the circumstances, allowing foreign interests to use comity as a weapon for the enforcement of anticompetitive foreign restrictions is to reward those countries that resisted the procompetitive tide in the WTO process. By continuing to offer a convenient forum for the enforcement of anticompetitive foreign laws, the Commission could become the unintended accomplice of those who seek to thwart the Commission's own market opening agenda. The time has come for the Commission to consider whether its comity-based enforcement policy continues to serve the public interest.

The Commission currently has before it an *Application for Review* of an order adopted by the Common Carrier Bureau August 8, 1997, that found USA Global Link, Inc. in violation of the Commission's *Call-Back Proceeding* and Section 214 of the Communications Act of 1934. It is my understanding that the Global Link proceeding is currently classified as a "restricted" proceeding, thereby limiting the participation of other parties. One party has asked that the proceeding be opened for broader participation, but this request was denied by a branch chief.

This petition involves matters of important public policy, including competition in global markets for international telecommunications services. Such competition will benefit U.S. consumers, industry and workers. Global Link's *Application for Review* raises issues of international market access and competition, particularly with respect to those countries that did not make full market-opening offers in the WTO negotiations.

An open discussion of these important issues is necessary. The Commission and the public would benefit from the added information which interested parties could provide on call-back and related international market-access and competition issues. Therefore, I urge that the proceeding be re-classified as a "non-restricted" proceeding in which all interested parties have an opportunity to present their views. High international phone rates harm U.S. consumers traveling abroad and are a barrier to U.S. companies trying to doing business overseas, particularly small companies. Markets closed to U.S. carriers are an impediment to the continued growth of our economy. Let's do everything we can to open markets, bring rates down, and give the public a chance to express its views.

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Sincerely,


Tom Bliley
Chairman

TB:pp

cc: Mr. Bert Halprin
Attorney for the Philippine Long-Distance Telephone Company

Mr. Scott Blake Harris
Attorney for USA Global Link, Inc.

Mr. Ernest B. Kelly, III
Telecommunications Resellers Association